

**GOTTLIEB & ASSOCIATES**  
ATTORNEYS

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September 20, 2020

**VIA ECF**

The Honorable Judge J. Paul Oetken  
United States District Court Judge  
United States District Court Southern District of New York  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Sosa v. USA Medical and Surgical Supplies LLC*,  
Case No.: 1:20-cv-04782-JPO

Dear Judge Oetken,

The undersigned represents Yony Sosa, on behalf of himself and all other persons similarly situated (“Plaintiff”) and respectfully seeks leave to file a Second Amended Complaint in the above referenced action against USA Medical and Surgical Supplies LLC, (“Defendant”).

By way of background, the Plaintiff’s original Complaint was filed on June 22, 2020 (Dkt. 1) and contained a typographical error in the spelling of the Plaintiff’s name in the caption. A First Amended Complaint was filed on June 24, 2020 (Dkt. 5) pursuant to FRCP 15(a)(1)(A) to correct the typographical error.

This Letter Motion seeks leave to file a Second Amended Complaint, pursuant to FRCP 15(a)(2) - “[t]he Court should freely grant leave when justice requires.” Furthermore, the filing of a Second Amended Complaint would not prejudice or disadvantage the Defendant in this action. Defendant filed a Motion to Dismiss on September 1, 2020, (Dkt. 21) under FRCP 12(b)(1) and 12(b)(6), and a Second Amended Complaint will be timely filed and address the alleged deficiencies raised by the Defendant’s Motion to Dismiss.<sup>1</sup>

Pursuant to your Honor’s Individual Rule (D)(ii) of Practice in Court Cases - “[i]f a motion to dismiss is filed, the plaintiff has the right to amend its pleading within 21 days pursuant to Fed. R. Civ. P. 15(a)(1)(B).

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<sup>1</sup> Proposed Second Amended Complaint attached hereto.

Therefore, pursuant to FRCP 15(a)(2) and Your Honor's Individual Rule (D)(ii), the Plaintiff requests your Honor grant leave for the Plaintiff to file a Second Amended Complaint which is timely.

Thank you for your attention to this matter. Should the Court have any questions, please do not hesitate to contact the undersigned attorney.

Respectfully submitted,

**GOTTLIEB & ASSOCIATES**

*s/Jeffrey M. Gottlieb, Esq.*

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*Attorneys for Plaintiffs*

cc: All counsel of record via ECF

SO ORDERED:

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United States District Court Judge